

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5333 of 1984

Date of decision: 09-08-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMANLAL DAHYABHAI DARJI

Versus

STATE OF GUJARAT

Appearance:

MR DF AMIN for Petitioner
MR MF THAKKER for Respondent No. 1
None present for other respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/08/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner has challenged in this special civil application order/letter of respondent No.2 dated 12th August, 1984 under which he had directed that respondent No.3 shall continue to hold the charge of Headmaster, Primary School, Moraiya, Taluka Sanand, District Ahmedabad.

2. It is not in dispute that respondent No.3 was working as Headmaster earlier to the date of transfer and posting of the petitioner to the said primary school. The counsel for the petitioner does not dispute that there is no post of Headmaster and it is also not a matter of promotion. Only a senior teacher amongst the teachers working in the school is allowed to work on the post of Headmaster for which some allowance is given. Claim of the petitioner for working on the post of Headmaster is based on the ground that he is senior to Mafatlal Nathabhai Patel amongst all the teachers working at the school and as such he has to be posted as Headmaster. The counsel for the petitioner has not produced the seniority list in which the petitioner is shown senior to respondent No.3. Reliance has been placed only on the certificate of Nirikshak Adhikari (Education) of the Taluka Panchayat, issued on 24-9-1984 wherein it is given out that the petitioner entered the service on 1-9-1959 and respondent No.3 on 23-11-1959. On the basis of this certificate the petitioner claims that he is senior to respondent No.3. I do not find any substance in this claim. Seniority is not always dependent on the date of appointment. It depends on various other factors also. The only authentic document regarding seniority of persons in a cadre is the final seniority list prepared by the concerned Department. This document has not been produced. In view of this fact the claim of the petitioner is not justifiable. The District Education Officer who is higher in rank than Nirikshak Adikari (Education) has decided the matter against the petitioner and that the order dated 12-8-1994 does not call for interference by this court.

3. In the result this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

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